

REMARKS

This is in response to the Non-Final Office Action mailed on September 12, 2007 in which prosecution was reopened, claims 1, 8-15 and 18-20 were allowed, claim 24 was rejected, and claims 25-26 were objected to. The Examiner's allowance of claims and indication of other allowable subject matter is again appreciated. However, with this Response, no amendments are made and the claims are presented for reconsideration and allowance.

Examiner Interview

On November 14, 2007, Examiner Mercedes and John Veldhuis-Kroeze discussed newly cited U.S. Patent No. 7,215,498 to Calfee et al., hereafter referred to as "Calfee". It was agreed upon by both Examiner Mercedes and John Veldhuis-Kroeze that, since the June 18, 2004 priority date of Calfee is not earlier than the April 15, 2004 filing date of the present application, Calfee is not prior art to the present application. It was also agreed upon that Applicant would submit a response to the Office Action affirming this fact, and that if a new basis of rejection is presented in a subsequent Office Action, that the subsequent Office Action would not be made Final.

Claim Rejection Under 35 U.S.C. § 103

In the Office Action, claims 24-26 were rejected as being unpatentable over Wiseloge et al. (U.S. Patent No. 6,130,796) in view of Calfee. In support of the rejection of claim 24, the Office Action includes an admission that "Wiseloge fails to particularly disclose the last usable track is identified as a function of a position error signal value," which corresponds to an express limitation of independent claim 24. However, the Office Action cited Calfee for teaching this limitation. Since it has been established that Calfee is not prior art to the present application, it is respectfully submitted that a prima facie case of obviousness has not been made, and that claims 24-26 are in condition for allowance. Reconsideration and allowance of claims 24-26 are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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